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IN THE

**Supreme Court of the United States**

**OCTOBER TERM, 1947**

**No. 452-454, Incl.**

NEW ORLEANS, TEXAS AND MEXICO RAILWAY COMPANY,  
Debtor, by ANDREW W. COMSTOCK, representing himself  
and others, etc.,

Petitioner,

vs.

GROUP OF INSTITUTIONAL INVESTORS, etc., et al.,  
Respondents.

GUY A. THOMPSON, Trustee of the New Orleans, Texas  
and Mexico Railway Company, by ANDREW W. COMSTOCK,  
representing himself and others, etc.,

Petitioner,

vs.

GROUP OF INSTITUTIONAL INVESTORS, etc., et al.,  
Respondents.

ANDREW W. COMSTOCK,

Petitioner,

vs.

GUY A. THOMPSON, Trustee of New Orleans, Texas and  
Mexico Railway Company, Debtor, et al.,

Respondents.

**PETITIONERS' BRIEF**

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State Judicial Code Section 2015, 2016, 2017, 2018

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**PETITIONERS' BRIEF**

### **Jurisdiction**

Jurisdiction of this Court is invoked under Section 240(a) of the Judicial Code, as amended. Petition for writs of certiorari to the Circuit Court of Appeals for the Eighth Circuit was granted on January 12, 1948.

### **The Opinions of the Courts Below**

The opinion of the District Court (R. 1089)\* is reported in 64 F. Supp. 64. The opinion of the Circuit Court of Appeals for the Eighth Circuit (R. IV-29) is reported in 163 F. (2d) 358.

### **Summary Statement of the Case**

There were four related appeals before the Circuit Court of Appeals for the Eighth Circuit in the litigation over the validity and priority of the claim of the Missouri Pacific R. R. Co. (hereinafter called MOP) against the New Orleans, Texas & Mexico Ry. Co. (hereinafter called NOTM).

Three of these appeals were from Order No. 2604-A of the District Court below, which allowed the MOP Inter-company Claim and overruled objections relating thereto (R. 7). These three appeals were as follows:

- (a) in the name of Andrew W. Comstock (Appeal No. 13,376, now Cause No. 451)

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\* References to the transcript of the record are indicated by the letter "R." except for Volume IV thereof which is indicated by "R. IV". Arabic numerals indicate pages.

- (b) in the name of NOTM, by Comstock (Appeal No. 13,377, now Cause No. 452)
- (c) in the name of Guy A. Thompson, Trustee of NOTM, by Comstock (Appeal No. 13,378, now Cause No. 453).

The fourth appeal was that of Comstock in his own name from a subsequent order of the District Court (R. 39) denying his petition for leave to appeal from Order No. 2604-A in the name of Guy A. Thompson, Trustee of NOTM (Appeal No. 13,379, now Cause No. 454).

The Circuit Court of Appeals considered Appeal No. 13,376 taken by Comstock in his own name from Order No. 2604-A, and affirmed such order on the merits. This is Cause No. 451 in which this Court granted certiorari on January 12, 1948. The annexed brief relates to this cause.

The Circuit Court of Appeals dismissed the remaining three appeals (Nos. 13,377-79, Causes No. 452-4).

This brief relates to these three causes. In support thereof, we rely also on the annexed brief which is hereby incorporated by reference.

These three causes have been maintained for but one purpose. Petitioners seek an adjudication on the merits of the validity and priority of the MOP Intercompany Claim.

It is desired to eliminate from the litigation any possible procedural question as to whether Comstock should have appealed from the order of allowance of the MOP Intercompany Claim in the name of NOTM or in the name of the Trustee of NOTM rather than in his own.



**CONCLUSION**

It is respectfully submitted that the orders and judgments of the Circuit Court of Appeals for the Eighth Circuit be reversed and the cause be remanded with directions that the MOP Claim be disallowed or subordinated to the claims of the holders of MOP 5 $\frac{1}{4}$ % Secured Serial Gold Bonds.

Respectfully submitted,

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